

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carlo Vescovi	Team: Squad #14	CCRB Case #: 202308215	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/04/2023 2:00 AM	Location of Incident: In front of 2240 University Avenue	18 Mo. SOL 1/4/2025	Precinct: 52		
Date/Time CV Reported Wed, 08/30/2023 9:34 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/30/2023 9:34 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Matthew Guerrero	03121	965737	052 PCT
2. PO Ronald Urgiles	07711	964815	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Matthew Guerrero	Abuse: Police Officer Matthew Guerrero questioned § 87(2)(b) [REDACTED]	[REDACTED]
B . PO Matthew Guerrero	Abuse: Police Officer Matthew Guerrero stopped § 87(2)(b) [REDACTED]	[REDACTED]
C . PO Ronald Urgiles	Abuse: Police Officer Ronald Urgiles stopped § 87(2)(b) [REDACTED]	[REDACTED]
D . PO Matthew Guerrero	Abuse: Police Officer Matthew Guerrero frisked § 87(2)(b) [REDACTED]	[REDACTED]
E . PO Matthew Guerrero	Abuse: Police Officer Matthew Guerrero improperly used his body-worn camera.	[REDACTED]
F . PO Ronald Urgiles	Abuse: Police Officer Ronald Urgiles improperly used his body-worn camera.	[REDACTED]
G . PO Matthew Guerrero	Abuse: Police Officer Matthew Guerrero failed to provide § 87(2)(b) with a business card.	[REDACTED]
§ 87(2)(g), § 87(4-b)	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b)	[REDACTED]	[REDACTED]

Case Summary

On August 30th, 2023, § 87(2)(b) filed the following complaint with the CCRB via phone.

On July 4th, 2023, at approximately 2:00am, § 87(2)(b) rolled a marijuana cigarette while standing between two parked cars near the side entrance to 2240 University Avenue in the Bronx. Police Officers Ronald Urgiles and Matthew Guerrero, both of the 52nd Precinct, drove past the location and PO Guerrero asked § 87(2)(b) “Just the weed?” (**Allegation A: Abuse of Authority, § 87(2)(g)** PO Guerrero exited the police vehicle and he and PO Urgiles stopped § 87(2)(b) (**Allegation B: Abuse of Authority, § 87(2)(g)** **Allegation C: Abuse of Authority, § 87(2)(g)** PO Guerrero frisked § 87(2)(b) fanny pack (**Allegation D: Abuse of Authority, § 87(2)(g)** Neither PO Guerrero nor PO Urgiles’ body worn cameras were activated during this incident (**Allegation E: Abuse of Authority, § 87(2)(g)** **Allegation F: Abuse of Authority, § 87(2)(g)** § 87(2)(b) requested PO Guerrero’s business card, and PO Guerrero failed to fully satisfy § 87(2)(b) request for identifying information (**Allegation G: Abuse of Authority, § 87(2)(g)** § 87(2)(g), § 87(4-b)

No arrests or summonses resulted from this incident.

There was no BWC footage in this case, as PO Guerrero improperly used his body worn camera. § 87(2)(b) provided cell phone footage to the CCRB, the relevant aspects of which are addressed in further detail below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Matthew Guerrero questioned § 87(2)(b).

Allegation (B) Abuse of Authority: Police Officer Matthew Guerrero stopped § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Matthew Guerrero frisked § 87(2)(b)

The investigation established the following facts: On July 4th, 2023, at approximately 2:00am, § 87(2)(b) rolled a marijuana cigarette while standing between two parked cars, wearing a fanny pack around his chest, and standing near the side entrance to 2240 University Avenue in the Bronx. An unmarked police vehicle, operated by PO Urgiles and with PO Guerrero in the front passenger’s seat, drove up next to § 87(2)(b) PO Guerrero exited the police vehicle and approached § 87(2)(b) near the two parked cars. PO Guerrero asked § 87(2)(b) “Just the weed?” PO Guerrero frisked § 87(2)(b) fanny pack. No arrests or summonses resulted from this incident.

§ 87(2)(b) stated (BR 01) that upon observing the unmarked police vehicle, he began filming a video on his cellphone. PO Guerrero asked § 87(2)(b) “It’s just weed in your bag?” from the front passenger seat, and § 87(2)(b) replied yes. PO Guerrero then exited the vehicle and approached § 87(2)(b) PO Guerrero immediately grabbed § 87(2)(b) fanny pack and began squeezing it. § 87(2)(b) told PO Guerrero, “I don’t want you touching me.” After frisking the fanny pack, PO Guerrero walked back towards his police vehicle.

§ 87(2)(b) cell phone footage (BR 02) captures the following: At 0:00, the footage begins with the phone resting on the hood of a car, facing upwards towards § 87(2)(b) is captured rolling a marijuana cigarette. At 0:14, § 87(2)(b) is captured turning his head to the left, extending his neck and stating, “What?” At 0:19, PO Guerrero is captured stating, “Just the weed?” § 87(2)(b) replies, “It’s my birthday, bro.” At 0:24, § 87(2)(b) lifts the camera up so that it is facing himself and PO Guerrero, who is now standing face to face with § 87(2)(b) between the two parked vehicles. PO Guerrero has his right hand on the exterior of § 87(2)(b) fanny pack and is captured frisking the outside of the fanny pack. § 87(2)(b) asks PO Guerrero, “Why are you searching me?” PO Guerrero replies, “I’m not searching you” (0:25).

PO Guerrero stated (BR 03) that he was in the front passenger’s seat of a vehicle which PO

Urgiles operated. After turning onto West 183rd Street, PO Guerrido observed § 87(2)(b) profile, standing near a parked vehicle with his neck bent slightly facing downwards. PO Guerrido did not suspect § 87(2)(b) of committing any crime and he merely found § 87(2)(b) body language to be curious. PO Guerrido then exited the vehicle to see what § 87(2)(b) was doing, at which point § 87(2)(b) turned his body away from PO Guerrido. Once he got closer to § 87(2)(b) PO Guerrido realized that § 87(2)(b) was rolling marijuana. Upon this realization, PO Guerrido asked § 87(2)(b) “Just the weed?” PO Guerrido did not make any observations that led him to believe that § 87(2)(b) possessed anything other than marijuana. PO Guerrido also observed § 87(2)(b) fanny pack and immediately reached out, frisking the bag to determine its contents. PO Guerrido did this because the area was a high crime and high violence area where some individuals carry guns in their fanny packs, because of the late hour of night, and because § 87(2)(b) had turned his body away from PO Guerrido. PO Guerrido had no other reason to believe that § 87(2)(b) was armed. PO Guerrido stated that § 87(2)(b) was not considered stopped, but rather subject to a Level 2 encounter on the basis of founded suspicion.

PO Urgiles stated (BR 04) that moments after making the turn onto West 183rd Street from University Place, PO Guerrido told PO Urgiles to stop the car. PO Urgiles did not know why, and was not curious why PO Guerrido told him to stop the car. PO Urgiles and PO Guerrido did not have any conversation about the stop that PO Urgiles could recall. PO Urgiles could not recall if he heard PO Guerrido state, “Just the weed?” PO Urgiles did not make any observations about § 87(2)(b) prior to PO Guerrido approaching him. Based on PO Urgiles’ understanding, § 87(2)(b) was free to leave. PO Urgiles did not suspect § 87(2)(b) of a crime, nor did he have reason to believe § 87(2)(b) was armed.

As per *People v. De Bour*, 40 N.Y.2d 210 [1976], (BR 05), an officer may ask pointed or accusatory questions when the officer has founded suspicion that criminal activity is afoot. Refusal to answer questions and/or walking or running away does not escalate the encounter. An officer may forcibly stop and detain a person if the officer has reasonable suspicion that the person has committed, is committing or is about to commit a felony or misdemeanor. During this encounter, a reasonable person would not feel free to disregard the officer and walk away. An officer may frisk the individual if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed.

§ 87(2)(g)

PO Guerrido stated that when he asked § 87(2)(b) “Just the weed?” PO Guerrido did not suspect § 87(2)(b) of possessing anything other than weed § 87(2)(g)

It is undisputed that PO Guerrido frisked § 87(2)(b) bag, § 87(2)(g)

When PO Guerrido approached § 87(2)(b) he stated that § 87(2)(b) turned his body away from him, at which point PO Guerrido reached out and frisked § 87(2)(b) bag to determine the contents, § 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Matthew Guerrido improperly used his body-worn camera.

It is undisputed that PO Guerrido did not activate his body-worn camera during this incident. A September 7th, 2023, request to the NYPD's Legal Bureau yielded negative results for any corresponding BWC activations for PO Guerrido (BR 06). It is also undisputed that PO Guerrido first asked § 87(2)(b) "Just the weed?" and frisked § 87(2)(b) fanny pack during their encounter.

§ 87(2)(b) stated that PO Guerrido did not have his BWC activated during this incident and knew this because he did not observe PO Guerrido touch the camera at any point, and the camera was displaying a green light in lieu of a red one.

PO Guerrido stated that he observed § 87(2)(b) from inside his police vehicle for approximately one minute. PO Guerrido did not activate his BWC during this time because he did not suspect § 87(2)(b) of committing any crime. PO Guerrido stated that when he exited the vehicle, he did not know what type or level of interaction he was going to have with § 87(2)(b) and that by the time the situation had escalated to a mandatory BWC activation category, it was too late.

NYPD Patrol Guide Procedure 212-123 (BR 07) states that members of service are to activate BWC for any police action, including but not limited to any self-initiated investigative or enforcement actions and investigative encounters.

§ 87(2)(g)

§ 87(2)(b) PO Guerrido stated that he observed § 87(2)(b) for one minute prior to PO Guerrido exiting the vehicle, which was ample time to turn on his body worn camera.

§ 87(2)(g)

Allegation (G) Abuse of Authority: Police Officer Matthew Guerrido failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) stated that after PO Guerrido frisked § 87(2)(b) and before he re-entered his police vehicle, § 87(2)(b) requested a business card from PO Guerrido. PO Guerrido then took out a piece of paper and handed it to § 87(2)(b). After the incident concluded, § 87(2)(b) looked at the business card only to realize that it was a 'blank' NYPD business card containing generic information for various NYPD departments. The business card did not contain PO Guerrido's name or shield number. § 87(2)(b) was unable to provide the investigation with a photo of the business card.

§ 87(2)(b) cell phone video (BR 02) captures the following: At 0:35, § 87(2)(b) states, "I'm just trying to enjoy my birthday. Can I get a card?" PO Guerrido replies, "You can get a card, absolutely." At 0:38, PO Guerrido states, "3121," and hands § 87(2)(b) a business card at 0:42. At no point on the video is PO Guerrido captured stating his name. The contents of the card itself are not captured in the video.

PO Guerrido stated that at the conclusion of the incident, § 87(2)(b) requested his business card and he provided one. PO Guerrido initially stated that he also verbally provided § 87(2)(b) with his name and shield number, but upon reviewing § 87(2)(b) cell phone video, PO Guerrido was unable to hear or point out the point at which PO Guerrido provided his name. PO Guerrido stated that at the time of the incident, he was equipped with business cards that had the name and phone number of his command, but did not contain his pre-printed name or shield

number.

Administrative Code 14-174 (BR 08) states that during law enforcement activity, including but not limited to frisks, an officer must provide a business card to such person at the conclusion of such activity that does not result in an arrest or summons. New York City Administrative Code further specifies that any business cards used by an officer to identify himself or herself to a person who is the subject of a law enforcement activity shall be pre-printed, and include, at a minimum, the name, rank, shield number, and a space to write in the command or such officer, which shall be indicated. Additionally, upon request, members of service will provide a business card to any person requesting identifying information or provide such information verbally to such person and allow such person sufficient time to record such information when such officer does not have an adequate number of pre-printed business cards or hand-written cards on his or her person at the time of such law enforcement activity.

Per the Administrative Code, upon a request for a business card, an officer is required to provide a pre-printed business card which includes the officer's name, rank, shield number, and command, or otherwise relay such information verbally. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Ronald Urgiles stopped § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Ronald Urgiles improperly used his body-worn camera.

§ 87(2)(g)

It is undisputed that PO Urgiles remained inside his police vehicle during this incident. It is undisputed that PO Urgiles did not activate his body-worn camera during this incident. A September 7th, 2023, request to the NYPD's Legal Bureau yielded negative results for any corresponding BWC activations for PO Urgiles (BR 06).

PO Urgiles stated that after PO Guerrido told him to stop their vehicle, PO Urgiles remained inside the police vehicle during this incident and had no interaction with § 87(2)(b). PO Urgiles did not observe what if any actions PO Guerrido made towards § 87(2)(b). PO Urgiles did not recall hearing PO Guerrido ask § 87(2)(b) "Just the weed?" PO Urgiles did not suspect § 87(2)(b) of having committed any crime. PO Urgiles stated that he did not turn his BWC on because he did not feel his role in the incident required him to activate his BWC.

At 0:14 on the player timestamp of § 87(2)(b) cell phone footage (BR 02), § 87(2)(b) turns to the side and asks, "What?" and some background music and sound is heard on the video. PO Guerrido is captured stating, "Just the weed?" (0:17). § 87(2)(b) again asks, "What?" and PO Guerrido repeats his question, loudly and clearly captured on § 87(2)(b) video (0:19). When the camera turns at 0:24 on the player timestamp, PO Guerrido is inches away from § 87(2)(b) and PO Urgiles' police vehicle is less than three feet away beside them. The vehicle's front passenger door is open, and at 0:40, PO Urgiles is seen facing PO Guerrido and § 87(2)(b) from the driver's seat of the police vehicle.

PO Urgiles statement that PO Guerrido was the officer who both initiated and enacted the encounter with § 87(2)(b) was consistent with all available evidence and statements, and § 87(2)(b) cell phone footage showed that PO Urgiles remained inside the patrol vehicle. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [Redacted]

§ 87(2)(g), § 87(4-b) [Redacted]

Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- PO Guerrido has been a member of service for six years and has been a subject in four complaints and eleven allegations, none of which have been substantiated.
 - § 87(2)(g) [Redacted]

- PO Urgiles has been a member of service for six years and has been a subject in five CCRB complaints and 13 allegations, none of which have been substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of January 22nd, 2024, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (BR 13).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad No.: 14

Investigator:	<u>C.V.</u>	<u>Inv. Carlo Vescovi</u>	<u>05/31/2024</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Cassandra Fenkel</u>	<u>IM Cassandra Fenkel</u>	<u>05/29/2024</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date